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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/719,241	11/21/2003	Robert J. Jimenez	23-0330	2188
40158	7590	01/25/2005	EXAMINER	
LEONARD & PROEHL, PROF. L.L.C. 3500 SOUTH FIRST AVENUE CIRCLE SUITE 250 SIOUX FALLS, SD 57105			WILSON, GREGORY A	
			ART UNIT	PAPER NUMBER
			3749	

DATE MAILED: 01/25/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/719,241	Applicant(s) JIMENEZ, ROBERT J.	
	Examiner Gregory A. Wilson	Art Unit 3749	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 November 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 17 is/are allowed.
- 6) ☒ Claim(s) 1-10 and 13 is/are rejected.
- 7) ☒ Claim(s) 11, 12 and 14-16 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 November 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Specification

The disclosure is objected to because of the following informalities:

On page 2, line 16, incorrect patent number 6,257,88.

Appropriate correction is required.

Drawings

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: housing 20, portable torch 6, heat gun 8. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2, and 7 are rejected under 35 U.S.C. 102(b) as being anticipated by **Todd et al (5,853,289)**. **Todd et al** discloses a pipe heating apparatus (10) for heating a pipe and conduit and includes a housing having a lower portion (22) and an upper

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portion (36), the lower portion has a bottom wall capable of being rested upon a horizontal support surface, the lower portion has a lower perimeter wall (34) extending upwardly from the bottom wall, the upper portion having a top wall (36) and an upper perimeter wall extending downwardly from the top wall, the lower perimeter wall and the upper perimeter wall have the same form and size, the upper portion being positionable to rest upon the lower portion whereby an edge of the upper perimeter wall abuts an edge of the lower perimeter wall and are attached by a hinge (38) (SEE Figure 2) thereby defining an interior space for receiving a portion of a pipe, an aperture (74) positioned within the lower portion of the housing for receiving heat source (72), the aperture is positioned in the lower perimeter wall.

Claims 1, 2, and 7 are rejected under 35 U.S.C. 102(b) as being anticipated by **Hirayama (6,257,880)**. **Hirayama** discloses a pipe heating apparatus (12) for heating a pipe and conduit and includes a housing having a lower portion (16) and an upper portion (14), the lower portion has a bottom wall (SEE Figure 2) capable of being rested upon a horizontal support surface, the lower portion has a lower perimeter wall (26) extending upwardly from the bottom wall, the upper portion having a top wall (18) and an upper perimeter wall (20) extending downwardly from the top wall, the lower perimeter wall and the upper perimeter wall have the same form and size, the upper portion being positionable to rest upon the lower portion whereby an edge of the upper perimeter wall abuts an edge of the lower perimeter wall and are attached by a hinge (30) (SEE Figure 1) thereby defining an interior space for receiving a portion of a pipe,

an aperture (42) positioned within the lower perimeter wall of the lower portion of the housing for receiving heat source.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 3-6 and 8-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Todd et al (5,853,289) in view of Halverson, Jr. (6,033,213)**. **Todd et al** discloses the applicants primary inventive concept as stated above, but does not particularly disclose that the aperture is in the top wall and of a particular size for receiving a desirable heat source (ie: heat gun). **Halvorsen, Jr.** teaches an aperture in the upper portion of a pipe heating apparatus for accepting a heat gun (58). It would have been obvious at the time the invention was made to a person having ordinary skill in the art to which the subject matter pertains to have modified **Todd et al** to include an aperture in the top wall for receiving the nozzle of a heat gun for the purpose of heating a pipe in a pipe heating apparatus for bending purposes. As to the size of the aperture, it would have been an obvious matter of design choice to modify the diameter of the aperture for accepting a suitable heat gun, since such a modification would have involved a mere change in the hole size. A modification as such is generally recognized as being within the level of ordinary skill in the art.

Claims 3-6 and 8-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Hirayama (6,257,880) in view of Halverson, Jr. (6,033,213)**. **Hirayama** discloses the applicants primary inventive concept as stated above, but does not particularly disclose that the aperture is in the top wall and of a particular size for receiving a desirable heat source (ie: heat gun). **Halvorsen, Jr.** teaches an aperture in the upper portion of a pipe heating apparatus for accepting a heat gun (58). It would have been obvious at the time the invention was made to a person having ordinary skill in the art to which the subject matter pertains to have modified **Hirayama** to include an aperture in the top wall for receiving the nozzle of a heat gun for the purpose of heating a pipe in a pipe heating apparatus for bending purposes. As to the size of the aperture, it would have been an obvious matter of design choice to modify the diameter of the aperture for accepting a suitable heat gun, since such a modification would have involved a mere change in the hole size. A modification as such is generally recognized as being within the level of ordinary skill in the art.

Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over **Todd et al (5,853,289)** in view of **Halverson, Jr. (6,033,213)** as applied to claims 3-6 and 8-10 above, and further in view of **Johnson (6,561,797)**. **Todd et al** in view of **Halverson, Jr.** discloses the applicants' primary inventive concept including a pipe heater having an aperture sized for accepting a heat gun as stated above, but does not particularly disclose a lower heat deflector. **Johnson** teaches the use of a lower heat deflector (25) which disperses the heat generated by the heating means (heat gun). It would

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have been obvious at the time the invention was made to a person having ordinary skill in the art to which the subject matter pertains to have modified the pipe heater of **Todd et al** in view of **Halverson, Jr.** to include the lower heat deflector as taught by **Johnson** for the purpose of distributing heat flow away from the aperture within the pipe heater.

Allowable Subject Matter

Claim 17 is allowed.

Claims 11, 12 and 14-16 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

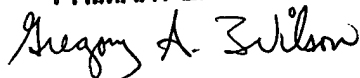
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gregory A. Wilson whose telephone number is (703) 308-1239. The examiner can normally be reached on 7 am - 4:30 pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ira Lazarus can be reached on (703)308-1935. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

GREGORY WILSON
PRIMARY EXAMINER



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April 21, 2004